

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1620 of 2025

Applicant : Nadeem Ahmed son of Dillan Khan
through Mr. Rashid Mehmood,
Advocate

Respondent : The State, through Ms. Rubina Qadir,
Additional Prosecutor General, Sindh

Date of hearing : 14.10.2025

Date of decision : 14.10.2025

ORDER

Jan Ali Junejo, J.- Through the instant Criminal Bail Before Arrest Application under Section 498 Cr.P.C., the applicant Nadeem Ahmed seeks pre-arrest bail from this Court. However, the Applicant was granted interim bail by this Court vide Order dated: 20.06.2025 in case arising out of FIR No.81 of 2025 registered at Police Station Orangi Town, Karachi, under Sections 380 and 457, P.P.C. The earlier bail application of the Applicant bearing Cr. Bail Application No.1168 of 2025 was dismissed by the Court of learned XIIth Additional Sessions Judge, Karachi-West.

2. As per the prosecution, on 30.01.2025, while the complainant was in Swat, a police party headed by SIP Nadeem (the present applicant) allegedly raided his house, took away one licensed rifle with 200 rounds, Rs.30,000/- cash, six mobile phones, a wristwatch, and a licensed pistol with 50 rounds, and also took his brother Nadeem Jan to the police station. It is further alleged that the brother was released after payment of Rs.15,000/-. Subsequently, the complainant filed an application under Sections 22-A & 22-B Cr.P.C., whereupon the learned Sessions Judge directed registration of the present FIR.

3. Learned counsel for the applicant contended that the applicant, being a police officer, has been falsely implicated with mala fide intent and ulterior motives by the complainant, who bears animosity due to previous police actions taken against criminal elements in the area. It was argued that the alleged incident pertains to the discharge of official duty and that

no personal gain or malfeasance has been shown. It was further submitted that there is unexplained delay of about one and a half months in the registration of the FIR, which casts serious doubt upon the prosecution story and indicates that the FIR has been lodged after due deliberation and consultation to falsely implicate the applicant. Learned counsel emphasized that the offences alleged do not fall within the prohibitory clause of Section 497 Cr.P.C.; no recovery has been made from the applicant; he has cooperated with the investigation; and there is no likelihood of his absconding or tampering with evidence. Lastly, the learned counsel prayed for grant of bail.

4. Conversely, the learned A.P.G. for the State, opposed the bail application, arguing that the applicant, a police official, misused his official authority and misappropriated the complainant's belongings. It was contended that the applicant's name appears in the FIR with a specific role and that he admitted partial recovery during inquiry. Hence, he does not deserve any discretionary relief. Lastly, the learned A.P.G. prayed for dismissal of bail.

5. I have carefully considered the submissions advanced by the learned counsel for both parties and examined the available record with due circumspection, as permissible at the bail stage, and with their able assistance. A tentative assessment of the FIR and other material placed on record reveals that the FIR was registered on 06.03.2025, approximately one and half month after the alleged occurrence dated 30.01.2025. This delay in lodging the FIR remains unexplained by the prosecution. It is a well-established principle of criminal jurisprudence that unexplained delay in setting the law into motion is viewed with suspicion and may give rise to an inference that the FIR was lodged after deliberation and consultation. This aspect, when considered alongside the admitted enmity between the parties and the official status of the applicant, casts doubt on the veracity of the allegations, such doubt must operate to the benefit of the accused even at the bail stage. It further appears that the applicant has joined the investigation and recorded his statement. No recovery has been effected from his possession. The alleged offence under Section 380, P.P.C., carries a punishment extending up to seven years and, therefore, does not fall within the prohibitory clause of Section 497, Cr.P.C. As for Section 457, P.P.C., it prescribes two distinct levels of punishment depending on the nature of the intended offence.

Generally, lurking house-trespass or house-breaking by night with intent to commit any offence punishable with imprisonment attracts imprisonment of either description for up to five years, along with a fine. However, if the intended offence is theft, the punishment may extend to fourteen years, in addition to a fine. It remains to be determined at trial whether the alleged lurking house-trespass or house-breaking by night occurred, and if so, whether it was committed with intent to commit any offence, or specifically theft. The prosecution has not alleged that the applicant is likely to abscond or tamper with prosecution witnesses. In view of the tentative assessment of the material available on record, the case appears to call for further inquiry within the contemplation of Section 497(2), Cr.P.C. Reliance is placed on the case of **Muhammad Shafi and others v. The State and others (2016 SCMR 1593)**, wherein the Honourable Supreme Court of Pakistan was pleased to hold that: *“The law is settled by now that in a case calling for further inquiry into the guilt of an accused person bail is granted to him as of right or not by way of grace or concession”*.

6. For the reasons discussed above, particularly the unexplained delay in lodging the FIR, the absence of recovery, and the non-prohibitory nature of the alleged offence, this Court finds that the applicant has made out a case for confirmation of pre-arrest bail. Consequently, this Criminal Bail Before Arrest Application No.1620 of 2025 is allowed, and the interim pre-arrest bail granted earlier is confirmed on the same terms and conditions. However, the applicant shall continue to cooperate with the investigating officer and shall not misuse the concession of bail.

7. It is further clarified that any observations contained herein are confined to the adjudication of the instant bail application and shall not, in any manner, prejudice the case of either party on merits during the trial. These are the detailed reasons for the Short Order dated: 14-10-2025.

JUDGE